



1401 H Street NW
Suite 600
Washington DC
20005-2164

Tel (202) 326-7300
Fax (202) 326-7333
www.usta.org

May 1, 2003

**SUMMARY OF *EX PARTE*
PRESENTATION**

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TWA325
Washington, DC 20554

Re: Ex Parte Presentation CC Docket No. 02-33

Dear Ms. Dortch:

On April 30, 2003, the undersigned and Lawrence E. Sarjeant, United States Telecom Association (USTA), and Trent D. Boaldin, President Epic Touch Company, met with the following members of the Wireline Competition Bureau: Carol Matthey, William Kehoe, Cathy Carpino, Michael Carowitz, Terri Natol, and Ben Childers. Participating from the Office of Engineering and Technology was Richard Hovey. The purpose of this meeting was to discuss matters previously addressed by USTA on the record in the above-referenced proceeding.

In the meeting, USTA discussed the following issues: the choice to offer broadband services as private or common carriage, universal service, and the potential carry over of certain Title II obligations to providers of non Title II services.

USTA emphasized that the FCC's analysis in the *Cable Declaratory Ruling*¹ can also be applied to allow incumbent local exchange carriers (ILECs) the option of offering broadband transport via common carrier private carriage or as a telecommunications component of a single integrated Internet access service. USTA reiterated that ILECs must be afforded the same opportunity as cable service providers to structure their broadband offerings in ways that meet customer needs. By providing ILECs the flexibility to select the regulatory framework with which to provide broadband, they will have incentives to and be able to continue to deploy broadband competitively.

USTA again stressed the criticality of the need for the preservation of specific, predictable and sufficient universal service support mechanisms. Exempting certain or all

¹ *Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities; Internet Over Cable Declaratory Ruling*, GN Docket No. 00-185, FCC 02-77 (rel. Mar. 15, 2002)).

Ms. Marlene Dortch

May 1, 2003

Page 2 of 2

broadband services from supporting the universal service fund (USF) would undercut the availability of sufficient USF support going forward. To ensure the future sufficiency of universal service support, the FCC should conclude that all broadband and broadband services (common carrier broadband transport services, private carriage broadband transport services and broadband-based information services) must contribute to USF support mechanisms pursuant to section 254(d) of the Communications Act of 1934, as amended of the Act.² USTA believes that the public interest requires such a finding.

Finally, USTA responded to questions from FCC staff concerning carrying over certain Title II obligations to providers of non-Title II services. USTA asserted that there may be certain obligations under Title II that the FCC could impose on providers of non-Title II services, but any such obligations must be very limited in scope and applied equally to all providers of broadband and broadband services.

In accordance with Section 1.1206(b)(2) of the Federal Communications Commission's (FCC) rules, this letter and the attached outline used during the meeting are being filed electronically with your office. Please feel free to contact me at (202) 326-7271 should you have any questions.

Sincerely,



Michael T. McMenamin
Associate Counsel

cc: Carol Matthey
William Kehoe
Ben Childers
Cathy Carpino
Michael Carowitz
Terri Natol
Richard Hovey

² 47 U.S.C. § 254(d).